

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

RONALD DANA WENMAN,

Petitioner,

v.

Civil Action Number: 2:11-cv-14040  
Honorable Sean F. Cox

CAROL R. HOWES,

Respondent.

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**ORDER DENYING PETITIONER'S  
REQUEST TO SUPPLEMENT THE RULE 5 MATERIALS**

This 28 U.S.C. § 2254 matter is before the Court on Petitioner Ronald Dana Wenman's Motion to Supplement the Rule 5 Materials, filed on July 2, 2012. (D.E. No. 9). In this Motion, Petitioner is requesting that the Court order Respondent to supply copies of videotapes, which allegedly demonstrate that he is not the perpetrator of the crimes for which he was convicted. The Court construes Petitioner's request as a Motion for Discovery and denies the request.

Petitioner is a Michigan prisoner incarcerated by the Michigan Department of Corrections at the Lakeland Correctional Facility in Coldwater, Michigan, where he is serving two concurrent life sentences following his 2006 jury convictions for felony murder and assault with intent to commit murder. Petitioner's convictions occurred in the Circuit Court in Jackson County, Michigan. On September 15, 2011, Petitioner filed a Habeas Petition, challenging the constitutionality of his convictions.

On November 8, 2011, the Court ordered Respondent to file an Answer to the Petition, along with the necessary Rule 5 materials, by May 31, 2011. Respondent complied with the Court's Order and the requested Answer and Rule 5 materials were filed on May 24, 2011, and

May 31, 2011, respectively. (D.E. Nos. 7, 8). Petitioner filed his Reply to Respondent's Answer on July 2, 2012, along with this Motion. (D.E. Nos. 9, 10).

The Court finds that Petitioner is requesting discovery. "A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course." *Bracy v. Gramley*, 520 U.S. 899, 904, (1997); *see also Harris v. Nelson*, 394 U.S. 286, 295 (1969) (holding that the "broad discovery provisions" of the Federal Rules of Civil Procedure did not apply in habeas proceedings). Rule 6 of the Rules Governing Section 2254 Cases provides that a habeas court may authorize a party to conduct discovery upon a showing of good cause. Petitioner has not shown that additional materials (the videotapes) are necessary for the proper resolution of this matter at this time. He has not made the requisite showing of "good cause" that the requested items are necessary for the disposition of this case.

However, the Court will bear in mind Petitioner's request if, after a review of the pleadings and the state-court record, it determines that additional discovery is needed. Rule 7 of the Rules Governing Section 2254 Cases allows for expansion of the record in habeas-corpus proceedings at the judge's discretion by inclusion of additional relevant materials.

At this time, the Court is unable to determine the actual relevance of the videotapes Petitioner seeks to include in evaluating his Petition. Therefore, the Court denies the request. Petitioner need not file any additional motions with respect to such matters.

**ORDER**

The Court **DENIES** Petitioner's request to supplement the record. (D.E. No. 9).

**IT IS SO ORDERED.**

Dated: August 13, 2012

S/ Sean F. Cox  
Sean F. Cox  
U. S. District Court Judge

I hereby certify that on August 13, 2012, the foregoing document was served upon counsel of record by electronic means and upon Ronald Dana Wenman by First Class Mail at the address below:

Ronald Wenman  
138134  
Lakeland Correctional Facility  
141 First Street  
Coldwater, MI 49036

Dated: August 13, 2012

S/ J. Hernandez  
Case Manager